

## CHAPTER 122

### CONFIDENTIALITY OF LAW ENFORCEMENT OFFICER INFORMATION, CRIMINAL SENTENCING, AND MASSAGE THERAPY REGULATION

S.F. 445

**AN ACT** relating to law enforcement including the establishment of a law enforcement officer privilege, criminal sentencing, and local enforcement of certain restrictions, and modifying certain criminal penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I LAW ENFORCEMENT OFFICER PRIVILEGE

Section 1. Section 22.7, subsection 5, Code 2017, is amended to read as follows:

5. Peace officers' investigative reports, privileged records or information specified in section 80G.2, and specific portions of electronic mail and telephone billing records of law enforcement agencies if that information is part of an ongoing investigation, except where disclosure is authorized elsewhere in this Code. However, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under [this section](#), except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual. Specific portions of electronic mail and telephone billing records may only be kept confidential under [this subsection](#) if the length of time prescribed for commencement of prosecution or the finding of an indictment or information under the statute of limitations applicable to the crime that is under investigation has not expired.

Sec. 2. Section 22.7, subsection 11, paragraph a, unnumbered paragraph 1, Code 2017, is amended to read as follows:

Personal information in confidential personnel records of government bodies relating to identified or identifiable individuals who are officials, officers, or employees of the government bodies. However, the following information relating to such individuals contained in personnel records shall be public records, except as otherwise provided in section 80G.3:

Sec. 3. NEW SECTION. 80G.1 Definitions.

As used in [this section](#) except as the context otherwise requires:

1. "Compensation" means the same as defined in [section 22.7, subsection 11](#).
2. "Law enforcement officer" means the same as "peace officer" as defined in [section 801.4](#).
3. "Undercover law enforcement officer" means a law enforcement officer who is actively involved with and assigned to investigate alleged violations of state or federal law and whose identity as a law enforcement officer is concealed while conducting an investigation. "Undercover law enforcement officer" includes a law enforcement officer actively engaged in undercover law enforcement work whose assignment requires the law enforcement officer to work incognito, or in a situation in which the true identity of the law enforcement officer is intentionally hidden from others. "Undercover law enforcement officer" does not include a law enforcement officer participating in undercover law enforcement work that is merely incidental or ancillary to the law enforcement officer's assigned duties.

Sec. 4. NEW SECTION. 80G.2 Law enforcement officer — privilege — confidentiality.

1. a. A law enforcement officer shall not be examined or be required to give evidence in any criminal proceeding that requires the disclosure of any records or information relating to any of the following:

(1) Identification documents or other documents necessary to conduct a lawful undercover criminal investigation.

(2) Personal identifying information about the law enforcement officer or immediate family member of the law enforcement officer, or other information unrelated to the law enforcement officer's professional duties which could be used to threaten, harm, or

intimidate the law enforcement officer or immediate family member of the law enforcement officer, or other information that could reasonably be construed to constitute an unwarranted invasion of privacy of the law enforcement officer or immediate family member of the law enforcement officer. Personal information that is knowingly and voluntarily disclosed by the law enforcement officer or immediate family member of the law enforcement officer may be disseminated.

b. A law enforcement officer who is called to testify shall not disclose information that is subject to nondisclosure as a result of a court order, statute, contract, or a condition or requirement of a grant.

2. In determining whether nondisclosure of confidential or privileged information about a law enforcement officer may affect a defendant's right to present a defense, the court shall make findings on the record regarding the impact of disclosure on the personal safety of the law enforcement officer or immediate family member of the law enforcement officer if the evidence is disclosed, the probative value of the confidential or privileged information about the law enforcement officer, the impact of disclosure on public safety, the potential for partial or limited disclosure of the privileged information, and the defendant's constitutional right to present a defense. Any privileged information that is admitted for purposes of a pretrial hearing or a preliminary admissibility determination shall remain confidential.

**Sec. 5. NEW SECTION. 80G.3 Personnel information — undercover law enforcement officer — confidentiality.**

The name, photograph, compensation and benefit records, time records, residential address, or any other personal identifying information of an undercover law enforcement officer shall be confidential while the undercover law enforcement officer is actively involved with or assigned to investigate violations of state or federal law.

**Sec. 6. NEW SECTION. 80G.4 Court determination.**

Factual disputes relating to who is an undercover law enforcement officer or what work constitutes undercover law enforcement work shall be determined by the district court.

DIVISION II  
CRIMINAL SENTENCING

Sec. 7. Section 124.401, subsection 1, paragraph a, subparagraph (3), Code 2017, is amended to read as follows:

(3) More than ~~forty~~ two hundred grams of a mixture or substance described in subparagraph (2) which ~~contains~~ cocaine base.

Sec. 8. Section 124.401, subsection 1, paragraph b, subparagraph (3), Code 2017, is amended to read as follows:

(3) More than ~~ten~~ forty grams but not more than ~~forty~~ fifty two hundred grams of a mixture or substance described in subparagraph (2) which contains cocaine base.

Sec. 9. Section 124.401, subsection 1, paragraph c, subparagraph (3), Code 2017, is amended to read as follows:

(3) ~~Ten~~ Forty grams or less of a mixture or substance described in subparagraph (2) which contains cocaine base.

Sec. 10. Section 124.413, subsection 1, Code 2017, is amended to read as follows:

1. Except as provided in [subsection 3](#) and [sections 901.11](#) and [901.12](#), a person sentenced pursuant to [section 124.401, subsection 1](#), paragraph "a", "b", "~~e~~", "e", or "f", shall not be eligible for parole or work release until the person has served a ~~minimum period~~ term of confinement of one-third of the maximum indeterminate sentence prescribed by law.

Sec. 11. Section 124.413, subsection 3, Code 2017, is amended to read as follows:

3. A person serving a sentence pursuant to [section 124.401, subsection 1](#), paragraph "b" or "~~e~~", shall be denied parole or work release, based upon all the pertinent information as determined by the court under [section 901.11, subsection 1](#), until the person has served

between one-half of the minimum term of confinement prescribed in [subsection 1](#) and the maximum indeterminate sentence prescribed by law.

Sec. 12. Section 707.11, Code 2017, is amended by adding the following new subsection:

**NEW SUBSECTION.** 5. *a.* As used in [this subsection](#), “peace officer” means the same as defined in [section 801.4](#).

*b.* For purposes of determining the category of sentence under [section 903A.2](#), the fact finder shall determine whether the attempt to commit murder was against a peace officer, with the knowledge that the person against whom the attempt to commit murder was committed was a peace officer acting in the officer’s official capacity.

*c.* If the fact finder determines the attempt to commit murder was against a peace officer as described in paragraph “*b*”, the person shall serve one hundred percent of the term of confinement imposed and shall be denied parole, work release, or other early release.

Sec. 13. Section 901.11, subsection 1, Code 2017, is amended to read as follows:

1. At the time of sentencing, the court shall determine when a person convicted under [section 124.401, subsection 1](#), paragraph “*b*” ~~or “*e*”~~, shall first become eligible for parole or work release within the parameters described in [section 124.413, subsection 3](#), based upon all the pertinent information including the person’s criminal record, a validated risk assessment, and the negative impact the offense has had on the victim or other persons.

Sec. 14. Section 901.12, subsection 1, Code 2017, is amended to read as follows:

1. Effective July 1, 2016, and notwithstanding [section 124.413](#), a person whose sentence commenced prior to July 1, 2016, for a conviction under [section 124.401, subsection 1](#), paragraph “*b*” ~~or “*e*”~~, who has not previously been convicted of a forcible felony, and who does not have a prior conviction under [section 124.401, subsection 1](#), paragraph “*a*”, “*b*”, or “*c*”, shall first be eligible for parole or work release after the person has served one-half of the minimum term of confinement prescribed in [section 124.413](#).

Sec. 15. Section 901.12, Code 2017, is amended by adding the following new subsection:

**NEW SUBSECTION.** 1A. Effective July 1, 2017, a person whose sentence commenced prior to July 1, 2017, for a conviction under [section 124.401, subsection 1](#), paragraph “*c*”, shall not be required to serve a minimum term of confinement as prescribed in [section 124.413](#).

Sec. 16. Section 902.4, Code 2017, is amended to read as follows:

**902.4 Reconsideration of felon’s sentence.**

For a period of one year from the date when a person convicted of a felony, other than a class “A” or class “B” felony ~~or a felony for which a minimum sentence of confinement is imposed~~, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the director of the Iowa department of corrections, may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. Copies of the order to return the person to the court shall be provided to the attorney for the state, the defendant’s attorney, and the defendant. Upon a request of the attorney for the state, the defendant’s attorney, or the defendant if the defendant has no attorney, the court may, but is not required to, conduct a hearing on the issue of reconsideration of sentence. The court shall not disclose its decision to reconsider or not to reconsider the sentence of confinement until the date reconsideration is ordered or the date the one-year period expires, whichever occurs first. The district court retains jurisdiction for the limited purposes of conducting such review and entering an appropriate order notwithstanding the timely filing of a notice of appeal. The court’s final order in the proceeding shall be delivered to the defendant personally or by regular mail. The court’s decision to take the action or not to take the action is not subject to appeal. However, for the purposes of appeal, a judgment of conviction of a felony is a final judgment when pronounced.

Sec. 17. Section 902.12, subsection 1, paragraph b, Code 2017, is amended to read as follows:

b. Attempted murder in violation of [section 707.11](#), except as provided in [section 707.11, subsection 5](#).

Sec. 18. Section 903A.2, subsection 1, unnumbered paragraph 1, Code 2017, is amended to read as follows:

Each inmate committed to the custody of the director of the department of corrections is eligible to earn a reduction of sentence in the manner provided in [this section](#). For purposes of calculating the amount of time by which an inmate's sentence may be reduced, inmates shall be grouped into the following ~~two~~ three sentencing categories:

Sec. 19. Section 903A.2, subsection 1, paragraph a, subparagraph (1), unnumbered paragraph 1, Code 2017, is amended to read as follows:

Category "A" sentences are those sentences which are not subject to a maximum accumulation of earned time of fifteen percent of the total sentence of confinement under [section 902.12](#) and are not category "C" sentences. To the extent provided in [subsection 5](#), category "A" sentences also include life sentences imposed under [section 902.1](#). An inmate of an institution under the control of the department of corrections who is serving a category "A" sentence is eligible for a reduction of sentence equal to one and two-tenths days for each day the inmate demonstrates good conduct and satisfactorily participates in any program or placement status identified by the director to earn the reduction. The programs include but are not limited to the following:

Sec. 20. Section 903A.2, subsection 1, paragraph b, Code 2017, is amended to read as follows:

b. Category "B" sentences are those sentences which are subject to a maximum accumulation of earned time of fifteen percent of the total sentence of confinement under [section 902.12](#) and are not category "C" sentences. An inmate of an institution under the control of the department of corrections who is serving a category "B" sentence is eligible for a reduction of sentence equal to fifteen eighty-fifths of a day for each day of good conduct by the inmate.

Sec. 21. Section 903A.2, subsection 1, Code 2017, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Category "C" sentences are those sentences for attempted murder described in [section 707.11, subsection 5](#). Notwithstanding paragraphs "a" or "b", an inmate serving a category "C" sentence is ineligible for a reduction of sentence under [this section](#).

Sec. 22. Section 903A.7, Code 2017, is amended to read as follows:

**903A.7 Separate sentences.**

1. Consecutive multiple sentences that are within the same category under [section 903A.2](#) shall be construed as one continuous sentence for purposes of calculating reductions of sentence for earned time.

2. If a person is sentenced to serve both category "A" and category "B" sentences of both categories, category "B" sentences shall be served before category "A" sentences are served, and earned time accrued against the category "B" sentences shall not be used to reduce the category "A" sentences. If an inmate serving a category "A" sentence is sentenced to serve a category "B" sentence, the category "A" sentence shall be interrupted, and no further earned time shall accrue against that sentence until the category "B" sentence is completed.

3. If a person is sentenced to serve both a category "C" sentence and another category sentence, the category "C" sentence shall be served before the other category sentence is served, and no earned time shall accrue until the category "C" sentence has been served. If an inmate serving a category sentence other than a category "C" sentence is sentenced to serve a category "C" sentence, the sentence of the other category sentence shall be interrupted, and no further earned time shall accrue against that sentence until the category "C" sentence is completed.

DIVISION III  
LOCAL ENFORCEMENT OF RESTRICTIONS

Sec. 23. REPEAL. Section 152C.6, Code 2017, is repealed.

Approved May 10, 2017